



Paper No. 4

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
A. Martin Lerner : DECISION DISMISSING
Application No. 10/060,159 : PETITION
Filed: 30 January, 2002 :
Atty's Dcket No. LMA 0113 PUS1 :

This is a decision on the petition filed on 10 May, 2002, requesting that the above-identified application, including Figures 3 & 4, be accorded a filing date of 30 January, 2002.

The petition is **DISMISSED**.

On 30 January, 2002, the application was filed.

On 15 April, 2002, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application stating that the application had been accorded a filing date of 30 January, 2002, but that Figures 3 & 4 described in the specification appeared to have been omitted.

In response, on 23 August, 2001, one (1) sheet of drawings containing Figures 3 & 4 and the present petition were submitted. Petitioner asserts that the one (1) sheet containing Figures 3 & 4 was filed with the other application papers on 30 January, 2002, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 1/30/02 and containing the above-identified application number, and identifies the application by attorney docket number and inventor's name, and acknowledges receipt, *inter alia*, of 2

drawing sheets. Petitioners request that the application, including the drawings containing Figures 3 & 4, be accorded a filing date of 30 January, 2002.

The petition is dismissed because the one (1) sheet of drawings containing Figures 3 & 4 received on 10 May, 2002, was damaged by improper handling during the USPS mail decontamination process. While this situation is not the fault of petitioners, a new copy of the one (1) sheet of drawings containing Figures 3 & 4 must be submitted.

As all mail addressed to the USPTO via the 20231 ZIP code is being irradiated, petitioners are encouraged to submit the drawings by one of the following means to avoid the irradiation process:

- (a) Express Mail (which is not being irradiated);
- (b) the USPTO's **temporary** address:

USPTO
P.O. Box 2327
Arlington, VA 22202

Petitioners are encouraged to use the Certificate of Mailing Procedures pursuant to 37 CFR 1.8 when mailing to this address;

- (c) Hand-carry to the Office of Petitions, or
- (d) Via courier (Federal Express, UPS, etc.)

The application will be retained in the Office of Petitions for a period of two (2) months to await petitioners' reply to this decision. If no renewed petition is timely filed, the application will be returned to the Office of Initial Patent Examination for further processing using only the papers present in the USPTO on the date of deposit.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney
Douglas I. Wood at 703 308-6918.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy